

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

ALVEN D. MARTIN,

Plaintiff,

vs.

R. JAMES NICHOLSON,  
As Secretary of the United States Department  
Of Veterans Affairs,

Defendant.

**CIVIL RIGHTS COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Alven D. Martin, by and through undersigned counsel, sues R. James Nicholson. in his official capacity as Secretary of the United States Department of Veterans Affairs, alleging unlawful employment practices, and demanding a jury trial. In support of his claim for relief, Plaintiff alleges as follows.

1. This is an action for damages and other relief brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. sec.s 1981a, 2000e, et seq. Plaintiff invokes the federal question and civil rights jurisdiction of this Court, under 28 U.S.C. sec.s 1331 and 1343(a)(4).
2. The claim asserted in this complaint arose in Stuart, Florida.
3. Plaintiff is a citizen of the United States and a resident of Tampa, Florida.
4. Defendant is the Secretary of the United States Department of Veterans Affairs, which Department is an Executive agency of the federal government. In his official capacity, Secretary Nicholson exercises administrative and supervisory control over every Department of Veterans Affairs facility, including the Outpatient Day Clinic facility (ODCF) in Stuart, Florida. As such, Secretary Nicholson is the "head of the . . . . agency" as contemplated under 42 U.S.C. sec. 2000e-16(c).

**FACTS**

5. Plaintiff was first employed at the ODCF on January 22, 1990. He had been working in Engineering at the VA facility in Little Rock, Arkansas, and had an associate degree in Electronic Engineering Technology, and had been recommended for work at ODCF in Engineering as an Electrical Helper. When he arrived, he was to interview for that position. After he arrived, he was told that the position had been cancelled, and that

all that was available was a position as a Housekeeping Aid in Building Management at pay grade WG-1. Neil Craig, a white man, was then awarded the Electrical Helper position shortly thereafter, on February 11, 1990.

6. Shortly after Plaintiff began working in Housekeeping, another Electrical Helper position was re-posted, in March or April of 1990. When he attempted to apply, he was told he could not, because of a VA policy that required him to be in his position for at least ninety days before applying for a new position.

7. Under the Vietnam Veterans Readjustment Appointment Authority, Plaintiff could have been awarded the position, rather than be subjected to any waiting period. When Plaintiff raised this with VA personnel, he was told that they “did not know that,” and that they would check into it. Thereafter the position was re-posted, and filled by a white man, Steve Ritchie, who was less qualified than Plaintiff. Plaintiff remained in housekeeping.

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12. Plaintiff began to receive promotions to his current position in Graphic Control as Utility Systems Operator/Repairer, pay grade WG-11. Despite the promotions, Plaintiff was constantly harassed by several co-workers, denied training and or manuals, and otherwise discriminated against with respect to terms and conditions of employment, and subjected to a hostile work environment, based on his race and or in retaliation for his previous EEO activity.

#### COUNT I: TITLE VII DISCRIMINATION

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17. At all times material hereto, Plaintiff was a federal employee of the VA within the meaning of 42 U.S.C. sec. 2000e-16(a). As such, the VA was required to make all employment decisions relating to Plaintiff without respect to his race. VA was further required to provide Plaintiff with a work environment free from racial harassment.

18. VA engaged in unlawful employment practices prohibited by 42 U.S.C. sec. 2000e-16(a), by among other things, improperly disciplining him on account of his race, denying him the ability to perform his job, attempting to “set him up” for discipline, and otherwise subjecting him to a hostile work environment.

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WHEREFORE, Plaintiff, Alven D. Martin, demands a jury trial against the Defendant, R. James Nicholson, and the following relief:

Reimbursement of lost salary, wages, benefits, or other compensation;

Compensatory and Punitive Damages to be set by the jury;

Prejudgment Interest;

Such further relief as this Court deems just and appropriate; and

Costs of this action, including reasonable attorney's fee.